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HOUSE BILL 2

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2009

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO REVENUE; RESTORING PROGRESSIVITY TO THE RATES OF
INCOME TAX PAID PURSUANT TO THE INCOME TAX ACT; REQUIRING
COMBINED REPORTING OF CORPORATE INCOME TAX FOR MULTISTATE
CORPORATIONS; INCREASING THE CIGARETTE TAX; ADJUSTING CIGARETTE
STAMP DISCOUNTS; ADJUSTING CIGARETTE TAX DISTRIBUTIONS;
ADJUSTING THE DISTRIBUTION OF THE LIQUOR EXCISE TAX; ADJUSTING
THE CAPITAL GAINS TAX; INCREASING THE TOBACCO PRODUCTS TAX;
INCREASING THE LIQUOR EXCISE TAX; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to the county and municipality recreational
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1 fund in an amount equal to [~~one and thirty-five hundredths~~] one
2 and eight-hundredths percent of the net receipts, exclusive of
3 penalties and interest, attributable to the cigarette tax.

4 B. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the county and municipal cigarette tax
6 fund in an amount equal to [~~two and sixty-nine hundredths~~] one
7 and eighty-five hundredths percent of the net receipts,
8 exclusive of penalties and interest, attributable to the
9 cigarette tax.

10 C. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the cancer research and treatment center
12 at the university of New Mexico health sciences center in an
13 amount equal to [~~one and thirty-five hundredths~~] one and eight-
14 hundredths percent of the net receipts, exclusive of penalties
15 and interest, attributable to the cigarette tax.

16 D. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the New Mexico finance authority in an
18 amount equal to [~~two and two-hundredths~~] one and sixty-one
19 hundredths percent of the net receipts, exclusive of penalties
20 and interest, attributable to the cigarette tax.

21 E. A distribution pursuant to Section 7-1-6.1 NMSA
22 1978 in an amount equal to [~~fourteen and thirty-seven~~
23 ~~hundredths~~] eleven and forty-nine hundredths percent of the net
24 receipts, exclusive of penalties and interest, attributable to
25 the cigarette tax, shall be made, on behalf of and for the

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1 benefit of the university of New Mexico health sciences center,
2 to the New Mexico finance authority.

3 F. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 in an amount equal to [~~six and five hundredths~~] four and
5 eighty-four hundredths percent of the net receipts, exclusive
6 of penalties and interest, attributable to the cigarette tax
7 shall be made to the New Mexico finance authority for land
8 acquisition and the planning, designing, construction and
9 equipping of department of health facilities or improvements to
10 such facilities.

11 G. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 in an amount equal to [~~fifteen and seventy-nine~~
13 ~~hundredths~~] eleven and forty-nine hundredths percent of the net
14 receipts, exclusive of penalties and interest, attributable to
15 the cigarette tax shall be made to the New Mexico finance
16 authority for deposit in the credit enhancement account created
17 in the authority.

18 H. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 in an amount equal to [~~one~~] eight-tenths percent of the
20 net receipts, exclusive of penalties and interest, attributable
21 to the cigarette tax shall be made, on behalf of and for the
22 benefit of the rural county cancer treatment fund, to the New
23 Mexico finance authority."

24 Section 2. Section 7-1-6.40 NMSA 1978 (being Laws 1997,
25 Chapter 182, Section 1, as amended) is amended to read:

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1 "7-1-6.40. DISTRIBUTION--LOCAL DWI GRANT FUND--
2 MUNICIPALITIES.--

3 A. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the local DWI grant fund in an amount
5 equal to forty-one and fifty-hundredths percent of the net
6 receipts attributable to the liquor excise tax not to exceed on
7 an annual basis the total amount distributed pursuant to this
8 subsection in fiscal year 2009.

9 B. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 of twenty thousand seven hundred fifty dollars (\$20,750)
11 monthly from the net receipts attributable to the liquor excise
12 tax shall be made to a municipality that is located in a class
13 A county and that has a population according to the most recent
14 federal decennial census of more than thirty thousand but less
15 than sixty thousand. The distribution pursuant to this
16 subsection shall be used by the municipality only for the
17 provision of alcohol treatment and rehabilitation services for
18 street inebriates."

19 Section 3. Section 7-2-2 NMSA 1978 (being Laws 1986,
20 Chapter 20, Section 26, as amended) is amended to read:

21 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax
22 Act and unless the context requires otherwise:

23 A. "adjusted gross income" means adjusted gross
24 income as defined in Section 62 of the Internal Revenue Code
25 [~~as that section may be amended or renumbered~~];

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1 B. "base income":

2 (1) means, for estates and trusts, that part
3 of the estate's or trust's income defined as taxable income and
4 upon which the federal income tax is calculated in the Internal
5 Revenue Code for income tax purposes plus, for taxable years
6 beginning on or after January 1, 1991, the amount of the net
7 operating loss deduction allowed by Section 172(a) of the
8 Internal Revenue Code [~~as that section may be amended or~~
9 ~~renumbered~~] and taken by the taxpayer for that year;

10 (2) means, for taxpayers other than estates or
11 trusts, that part of the taxpayer's income defined as adjusted
12 gross income plus, for taxable years beginning on or after
13 January 1, 1991, the amount of the net operating loss deduction
14 allowed by Section 172(a) of the Internal Revenue Code [~~as that~~
15 ~~section may be amended or renumbered~~] and taken by the taxpayer
16 for that year;

17 (3) includes, for all taxpayers, any other
18 income of the taxpayer not included in adjusted gross income
19 but upon which a federal tax is calculated pursuant to the
20 Internal Revenue Code for income tax purposes, except amounts
21 for which a calculation of tax is made pursuant to Section 55
22 of the Internal Revenue Code [~~as that section may be amended or~~
23 ~~renumbered~~]; "base income" also includes interest received on a
24 state or local bond; and

25 (4) includes, for all taxpayers, an amount

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1 deducted pursuant to Section 7-2-32 NMSA 1978 in a prior
2 taxable year if:

3 (a) such amount is transferred to
4 another qualified tuition program, as defined in Section 529 of
5 the Internal Revenue Code, not authorized in the Education
6 Trust Act; or

7 (b) a distribution or refund is made for
8 any reason other than: 1) to pay for qualified higher
9 education expenses, as defined pursuant to Section 529 of the
10 Internal Revenue Code; or 2) upon the beneficiary's death,
11 disability or receipt of a scholarship;

12 C. "compensation" means wages, salaries,
13 commissions and any other form of remuneration paid to
14 employees for personal services;

15 D. "department" means the taxation and revenue
16 department, the secretary or any employee of the department
17 exercising authority lawfully delegated to that employee by the
18 secretary;

19 E. "fiduciary" means a guardian, trustee, executor,
20 administrator, committee, conservator, receiver, individual or
21 corporation acting in any fiduciary capacity;

22 F. "filing status" means "married filing joint
23 returns", "married filing separate returns", "head of
24 household", "surviving spouse" and "single", as those terms are
25 generally defined for federal tax purposes;

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1 G. "fiscal year" means any accounting period of
2 twelve months ending on the last day of any month other than
3 December;

4 H. "head of household" means "head of household" as
5 generally defined for federal income tax purposes;

6 I. "individual" means a natural person, an estate,
7 a trust or a fiduciary acting for a natural person, trust or
8 estate;

9 J. "Internal Revenue Code" means the United States
10 Internal Revenue Code of 1986, as amended;

11 K. "lump-sum amount" means for the purpose of
12 determining liability for federal income tax, an amount that
13 was not included in adjusted gross income but upon which the
14 five-year-averaging or the ten-year-averaging method of tax
15 computation provided in Section 402 of the Internal Revenue
16 Code [~~as that section may be amended or renumbered~~] was
17 applied;

18 L. "modified gross income" means all income of the
19 taxpayer and, if any, the taxpayer's spouse and dependents,
20 undiminished by losses and from whatever source, including:

- 21 (1) compensation;
- 22 (2) net profit from business;
- 23 (3) gains from dealings in property;
- 24 (4) interest;
- 25 (5) net rents;

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- 1 (6) royalties;
- 2 (7) dividends;
- 3 (8) alimony and separate maintenance payments;
- 4 (9) annuities;
- 5 (10) income from life insurance and endowment
- 6 contracts;
- 7 (11) pensions;
- 8 (12) discharge of indebtedness;
- 9 (13) distributive share of partnership income;
- 10 (14) income in respect of a decedent;
- 11 (15) income from an interest in an estate or a
- 12 trust;
- 13 (16) social security benefits;
- 14 (17) unemployment compensation benefits;
- 15 (18) workers' compensation benefits;
- 16 (19) public assistance and welfare benefits;
- 17 (20) cost-of-living allowances; and
- 18 (21) gifts;

19 M. "modified gross income" excludes:

- 20 (1) payments for hospital, dental, medical or
- 21 drug expenses to or on behalf of the taxpayer;
- 22 (2) the value of room and board provided by
- 23 federal, state or local governments or by private individuals
- 24 or agencies based upon financial need and not as a form of
- 25 compensation;

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1 (3) payments pursuant to a federal, state or
2 local government program directly or indirectly to a third
3 party on behalf of the taxpayer when identified to a particular
4 use or invoice by the payer; or

5 (4) payments for credits and rebates pursuant
6 to the Income Tax Act and made for a credit pursuant to Section
7 7-3-9 NMSA 1978;

8 N. "net income" means, for estates and trusts, base
9 income adjusted to exclude amounts that the state is prohibited
10 from taxing because of the laws or constitution of this state
11 or the United States and means, for taxpayers other than
12 estates or trusts, base income adjusted to exclude:

13 (1) an amount equal to the standard deduction
14 allowed the taxpayer for the taxpayer's taxable year by Section
15 63 of the Internal Revenue Code [~~as that section may be amended~~
16 ~~or renumbered~~];

17 (2) an amount equal to the itemized deductions
18 defined in Section 63 of the Internal Revenue Code [~~as that~~
19 ~~section may be amended or renumbered~~] allowed the taxpayer for
20 the taxpayer's taxable year less the amount of state and local
21 taxes included in the taxpayer's itemized deduction and less
22 the amount excluded pursuant to Paragraph (1) of this
23 subsection;

24 (3) an amount equal to the product of the
25 exemption amount allowed for the taxpayer's taxable year by

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1 Section 151 of the Internal Revenue Code, [~~as that section may~~
2 ~~be amended or renumbered~~] multiplied by the number of personal
3 exemptions allowed for federal income tax purposes;

4 (4) income from obligations of the United
5 States of America less expenses incurred to earn that income;

6 (5) other amounts that the state is prohibited
7 from taxing because of the laws or constitution of this state
8 or the United States;

9 (6) for taxable years that began prior to
10 January 1, 1991, an amount equal to the sum of:

11 (a) net operating loss carryback
12 deductions to that year from taxable years beginning prior to
13 January 1, 1991 claimed and allowed, as provided by the
14 Internal Revenue Code; and

15 (b) net operating loss carryover
16 deductions to that year claimed and allowed; and

17 (7) for taxable years beginning on or after
18 January 1, 1991, an amount equal to the sum of any net
19 operating loss carryover deductions to that year claimed and
20 allowed, provided that the amount of any net operating loss
21 carryover from a taxable year beginning on or after January 1,
22 1991 may be excluded only as follows:

23 (a) in the case of a timely filed
24 return, in the taxable year immediately following the taxable
25 year for which the return is filed; or

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1 (b) in the case of amended returns or
2 original returns not timely filed, in the first taxable year
3 beginning after the date on which the return or amended return
4 establishing the net operating loss is filed; and

5 (c) in either case, if the net operating
6 loss carryover exceeds the amount of net income exclusive of
7 the net operating loss carryover for the taxable year to which
8 the exclusion first applies, in the next four succeeding
9 taxable years in turn until the net operating loss carryover is
10 exhausted; in no event shall a net operating loss carryover be
11 excluded in any taxable year after the fourth taxable year
12 beginning after the taxable year to which the exclusion first
13 applies;

14 O. "net operating loss" means any net operating
15 loss, as defined by Section 172(c) of the Internal Revenue Code
16 [~~as that section may be amended or renumbered~~] for a taxable
17 year as further increased by the income, if any, from
18 obligations of the United States for that year less related
19 expenses;

20 P. "net operating loss carryover" means the amount,
21 or any portion of the amount, of a net operating loss for any
22 taxable year that, pursuant to Paragraph (6) or (7) of
23 Subsection N of this section, may be excluded from base income;

24 Q. "nonresident" means every individual not a
25 resident of this state;

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1 R. "person" means any individual, estate, trust,
2 receiver, cooperative association, club, corporation, company,
3 firm, partnership, limited liability company, joint venture,
4 syndicate or other association; "person" also means, to the
5 extent permitted by law, any federal, state or other
6 governmental unit or subdivision or agency, department or
7 instrumentality thereof;

8 S. "resident" means an individual who is domiciled
9 in this state during any part of the taxable year or an
10 individual who is physically present in this state for one
11 hundred eighty-five days or more during the taxable year; but
12 any individual, other than someone who was physically present
13 in the state for one hundred eighty-five days or more during
14 the taxable year, who, on or before the last day of the taxable
15 year, changed the individual's place of abode to a place
16 without this state with the bona fide intention of continuing
17 actually to abide permanently without this state is not a
18 resident for the purposes of the Income Tax Act for periods
19 after that change of abode;

20 T. "secretary" means the secretary of taxation and
21 revenue or the secretary's delegate;

22 U. "state" means any state of the United States,
23 the District of Columbia, the commonwealth of Puerto Rico, any
24 territory or possession of the United States or any political
25 subdivision of a foreign country;

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1 V. "state or local bond" means a bond issued by a
2 state other than New Mexico or by a local government other than
3 one of New Mexico's political subdivisions, the interest from
4 which is excluded from income for federal income tax purposes
5 under Section 103 of the Internal Revenue Code [~~as that section~~
6 ~~may be amended or renumbered~~];

7 W. "surviving spouse" means "surviving spouse" as
8 generally defined for federal income tax purposes;

9 X. "taxable income" means net income less any lump-
10 sum amount;

11 Y. "taxable year" means the calendar year or fiscal
12 year upon the basis of which the net income is computed under
13 the Income Tax Act and includes, in the case of the return made
14 for a fractional part of a year under the provisions of the
15 Income Tax Act, the period for which the return is made; and

16 Z. "taxpayer" means any individual subject to the
17 tax imposed by the Income Tax Act."

18 Section 4. Section 7-2-7 NMSA 1978 (being Laws 2005,
19 Chapter 104, Section 4) is amended to read:

20 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
21 Section 7-2-3 NMSA 1978 shall be at the following rates for any
22 taxable year beginning on or after January 1, [~~2008~~] 2010:

23 A. For married individuals filing separate returns:

24 If the taxable income is:	The tax shall be:
25 Not over \$4,000	1.7% of taxable income

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1 Over \$ 4,000 but not over \$ 8,000 \$ 68.00 plus 3.2% of
2 excess over \$ 4,000
3 Over \$ 8,000 but not over \$ 12,000 \$ 196 plus 4.7% of
4 excess over \$ 8,000
5 Over \$ 12,000 but not over \$100,000 \$ 384 plus 4.9% of
6 excess over \$ 12,000
7 Over \$100,000 but not over \$250,000 \$ 4,696 plus 6.8% of
8 excess over \$100,000
9 Over \$250,000 but not over \$500,000 \$14,896 plus 7.7% of
10 excess over \$250,000
11 Over \$500,000 \$34,146 plus 8.2% of
12 excess over \$500,000.

13 B. For heads of household, surviving spouses and
14 married individuals filing joint returns:

15 If the taxable income is: The tax shall be:
16 Not over \$8,000 1.7% of taxable income
17 Over \$ 8,000 but not over \$ 16,000 \$ 136 plus 3.2% of
18 excess over \$ 8,000
19 Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7% of
20 excess over \$ 16,000
21 Over \$ 24,000 but not over \$200,000 \$ 768 plus 4.9% of
22 excess over \$ 24,000
23 Over \$200,000 but not over \$500,000 \$ 9,392 plus 6.8% of
24 excess over \$200,000
25 Over \$500,000 but not over \$1,000,000 \$29,792 plus 7.7% of

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1 excess over \$500,000
2 Over \$1,000,000 \$68,292 plus 8.2% of
3 excess over \$1,000,000.

4 C. For single individuals and for estates and
5 trusts:

6	If the taxable income is:	The tax shall be:
7	Not over \$5,500	1.7% of taxable income
8	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
9		excess over \$ 5,500
10	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
11		excess over \$ 11,000
12	Over \$ 16,000 <u>but not over \$133,000</u>	\$ 504.50 plus 4.9% of
13		excess over \$ 16,000
14	<u>Over \$133,000 but not over \$333,000</u>	<u>\$6,237.50 plus 6.8% of</u>
15		<u>excess over \$133,000</u>
16	<u>Over \$333,000 but not over \$667,000</u>	<u>\$19,837.50 plus 7.7% of</u>
17		<u>excess over \$333,000</u>
18	<u>Over \$667,000</u>	<u>\$45,555.50 plus 8.2% of</u>
19		<u>excess over \$667,000.</u>

20 D. The tax on the sum of any lump-sum amounts
21 included in net income is an amount equal to five multiplied by
22 the difference between:

- 23 (1) the amount of tax due on the taxpayer's
24 taxable income; and
25 (2) the amount of tax that would be due on an

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1 amount equal to the taxpayer's taxable income and twenty
2 percent of the taxpayer's lump-sum amounts included in net
3 income."

4 Section 5. Section 7-2-34 NMSA 1978 (being Laws 1999,
5 Chapter 205, Section 1, as amended) is amended to read:

6 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

7 A. Except as provided in Subsection C of this
8 section, a taxpayer:

9 (1) with taxable income equal to or less than
10 two hundred thousand dollars (\$200,000) may claim a deduction
11 from net income in an amount equal to the greater of:

12 [~~(1)~~] (a) the taxpayer's net capital
13 gain income for the taxable year for which the deduction is
14 being claimed, but not to exceed one thousand dollars (\$1,000);
15 or

16 [~~(2)~~] ~~the following percentage of the~~
17 ~~taxpayer's net capital gain income for the taxable year for~~
18 ~~which the deduction is being claimed:~~

19 ~~(a) for a taxable year beginning in~~
20 ~~2003, ten percent;~~

21 ~~(b) for a taxable year beginning in~~
22 ~~2004, twenty percent;~~

23 ~~(c) for a taxable year beginning in~~
24 ~~2005, thirty percent;~~

25 ~~(d) for a taxable year beginning in~~

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1 ~~2006, forty percent; and~~

2 ~~(c) for taxable years beginning on or~~
3 ~~after January 1, 2007]~~

4 (b) fifty percent; and

5 (2) with taxable income greater than two
6 hundred thousand dollars (\$200,000) may claim a deduction from
7 net income in an amount equal to the greater of the taxpayer's
8 net capital gain income for the taxable year for which the
9 deduction is being claimed, but not to exceed one thousand
10 dollars (\$1,000).

11 B. A husband and wife who file separate returns for
12 a taxable year in which they could have filed a joint return
13 may each claim only one-half of the deduction provided by this
14 section that would have been allowed on the joint return.

15 C. A taxpayer may not claim the deduction provided
16 in Subsection A of this section if the taxpayer has claimed the
17 credit provided in Section 7-2D-8.1 NMSA 1978.

18 D. As used in this section, "net capital gain"
19 means "net capital gain" as defined in Section 1222 (11) of the
20 Internal Revenue Code."

21 Section 6. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
22 Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
23 Section 4 and also by Laws 1993, Chapter 309, Section 2) is
24 amended to read:

25 "7-2A-8.3. COMBINED RETURNS.--

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1 A. A unitary corporation that is subject to
2 taxation under the Corporate Income and Franchise Tax Act [~~and~~
3 ~~that has not previously filed a combined return pursuant to~~
4 ~~this section or a consolidated return pursuant to Section~~
5 ~~7-2A-8.4 NMSA 1978 may elect to~~] shall file a combined return
6 with other unitary corporations as though the entire combined
7 net income were that of one corporation. The return filed
8 under this method of reporting shall include the net income of
9 all the unitary corporations. Transactions among the unitary
10 corporations may be eliminated by applying the appropriate
11 rules for reporting income for a consolidated federal income
12 tax return. [~~Any corporation that has filed an income tax~~
13 ~~return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978~~
14 ~~shall not file pursuant to this section unless the secretary~~
15 ~~gives prior permission to file on a combined return basis.~~]

16 B. Once corporations have reported net income
17 through a combined return for any taxable year, they shall file
18 combined returns for subsequent taxable years, so long as they
19 remain unitary corporations, [~~unless the corporations elect to~~
20 ~~file pursuant to Section 7-2A-8.4 NMSA 1978 or~~] unless the
21 secretary grants prior permission for one or more of the
22 corporations to file individually.

23 [C. ~~For taxable years beginning on or after January~~
24 ~~1, 1993, no unitary corporation once included in a combined~~
25 ~~return may elect, or be granted permission by the secretary,~~

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1 ~~for any subsequent taxable year to separately account pursuant~~
2 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

3 Section 7. Section 7-12-3 NMSA 1978 (being Laws 1971,
4 Chapter 77, Section 3, as amended) is amended to read:

5 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

6 A. For the privilege of selling, giving or
7 consuming cigarettes in New Mexico, there is levied an excise
8 tax at the following rates for each cigarette sold, given or
9 consumed in this state:

10 (1) [~~four and fifty-five hundredths cents~~
11 ~~(\$.0455)~~] seven and five-hundredths cents (\$.0705) if the
12 cigarettes are packaged in lots of twenty or twenty-five;

13 (2) [~~nine and ten-hundredths cents (\$.091)~~]
14 fourteen and ten-hundredths cents (\$.0141) if the cigarettes
15 are packaged in lots of ten; or

16 (3) [~~eighteen and twenty-hundredths cents~~
17 ~~(\$.182)~~] twenty-eight and twenty hundredths cents (\$.282) if
18 the cigarettes are packaged in lots of five.

19 B. The tax imposed by this section shall be
20 referred to as the "cigarette tax".

21 Section 8. Section 7-12-7 NMSA 1978 (being Laws 1971,
22 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,
23 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended
24 to read:

25 "7-12-7. SALE OF STAMPS--PRICES.--

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1 A. Only the department shall sell stamps. Stamps
2 may be sold by the department only to a distributor.

3 B. Stamps shall display a serial number. Stamps
4 bearing the same serial number shall not be sold to more than
5 one distributor. The department shall keep records of the
6 serial numbers of the stamps provided to each distributor.

7 C. A stamp shall be affixed to a package of
8 cigarettes in such a manner as to clearly display the serial
9 number at the point of sale.

10 D. Tax stamps shall be sold at their face value
11 with the following discounts:

12 (1) [~~one~~] sixty-five hundredths percent less
13 than the face value of the first thirty thousand dollars
14 (\$30,000) of stamps purchased in one calendar month;

15 (2) [~~eight-tenths~~] one-half percent less than
16 the face value of the second thirty thousand dollars (\$30,000)
17 of stamps purchased in one calendar month; and

18 (3) [~~one-half~~] thirty-two hundredths percent
19 less than the face value of stamps purchased in excess of sixty
20 thousand dollars (\$60,000) in one calendar month.

21 E. If the face value of tax stamps sold in a single
22 sale is less than one thousand dollars (\$1,000), the discount
23 provided for in this section shall not be allowed.

24 F. Payment for tax stamps shall be made on or
25 before the twenty-fifth day of the month following the month in

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1 which the sale of stamps by the department is made.

2 G. Tax-exempt stamps shall be provided only to
3 distributors and shall be free of charge; provided that the
4 distributor is in full compliance with the reporting
5 requirements of the Cigarette Tax Act and rules adopted
6 pursuant to that act."

7 Section 9. Section 7-12A-3 NMSA 1978 (being Laws 1986,
8 Chapter 112, Section 4, as amended) is amended to read:

9 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
10 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

11 A. For the manufacture or acquisition of tobacco
12 products in New Mexico to be distributed in the ordinary course
13 of business and for the consumption of tobacco products in New
14 Mexico, there is imposed an excise tax at the rate of [~~twenty-~~
15 ~~five~~] forty percent of the product value of the tobacco
16 products.

17 B. The tax imposed by Subsection A of this section
18 may be referred to as the "tobacco products tax".

19 C. The tobacco products tax shall be paid by the
20 first purchaser on or before the twenty-fifth day of the month
21 following the month in which the taxable event occurs."

22 Section 10. Section 7-17-5 NMSA 1978 (being Laws 1993,
23 Chapter 65, Section 8, as amended) is amended to read:

24 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

25 A. There is imposed on a wholesaler who sells

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underscored material = new
[bracketed material] = delete

1 alcoholic beverages on which the tax imposed by this section
2 has not been paid an excise tax, to be referred to as the
3 "liquor excise tax", at the following rates on alcoholic
4 beverages sold:

5 (1) on spirituous liquors, [~~one dollar sixty~~
6 ~~cents (\$1.60)~~] two dollars (\$2.00) per liter;

7 (2) on beer, except as provided in Paragraph
8 (5) of this subsection, [~~forty-one cents (\$.41)~~] ninety-five
9 cents (\$.95) per gallon;

10 (3) on wine, except as provided in Paragraphs
11 (4) and (6) of this subsection, [~~forty-five cents (\$.45)~~]
12 sixty-five cents (\$.65) per liter;

13 (4) on fortified wine, [~~one dollar fifty cents~~
14 ~~(\$1.50)~~] one dollar ninety cents (\$1.90) per liter;

15 (5) on beer manufactured or produced by a
16 microbrewer and sold in this state, provided that proof is
17 furnished to the department that the beer was manufactured or
18 produced by a microbrewer, [~~eight cents (\$.08)~~] sixty-two cents
19 (\$.62) per gallon;

20 (6) on wine manufactured or produced by a
21 small winegrower and sold in this state, provided that proof is
22 furnished to the department that the wine was manufactured or
23 produced by a small winegrower, [~~ten cents (\$.10)~~] thirty cents
24 (\$.30) per liter on the first eighty thousand liters sold and
25 [~~twenty cents (\$.20)~~] forty cents (\$.40) per liter on all

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1 liters sold over eighty thousand liters but less than nine
2 hundred fifty thousand liters; and

3 (7) on cider, forty-one cents (\$.41) per
4 gallon.

5 B. The volume of wine transferred from one
6 winegrower to another winegrower for processing, bottling or
7 storage and subsequent return to the transferor shall be
8 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
9 volume of wine of the transferee. Wine transferred from an
10 initial winegrower to a second winegrower remains a tax
11 liability of the transferor, provided that if the wine is
12 transferred to the transferee for the transferee's use or for
13 resale, the transferee then assumes the liability for the tax
14 due pursuant to this section.

15 C. A transfer of wine from a winegrower to a
16 wholesaler for distribution of the wine transfers the liability
17 for payment of the liquor excise tax to the wholesaler upon the
18 sale of the wine by the wholesaler."

19 Section 11. APPLICABILITY.--

20 A. The provisions of Sections 3, 4, 5 and 6 of this
21 act apply to taxable years beginning on or after January 1,
22 2010.

23 B. The distributions pursuant to the provisions of
24 Sections 1 and 2 of this act that are to become effective on
25 the effective date of those sections apply to revenue earned on

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[bracketed material] = delete

1 a modified accrual basis on or after the effective date of
2 those sections.

3 Section 12. CONTINGENT EFFECTIVE DATE.--The effective
4 date of the provisions of Sections 1, 2, 7, 8 and 9 of this act
5 is December 1, 2009; provided that this act is adopted by a
6 vote of two-thirds of each house. If either house fails to
7 adopt this act by a two-thirds' vote, the effective date of the
8 provisions of this act shall be February 1, 2010.

9 Section 13. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.